

178.2

ASSIGNMENT OF STUDENTS

SAN DIEGO UNIFIED SCHOOL DISTRICT

JUNE 1973

ASSEMBLYMEN

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Joint Legislative Audit Committee

GOVERNMENT CODE: SECTIONS 10500-10504

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September 20, 1973

Assemblyman Floyd L. Wakefield  
Room 4160, State Capitol  
Sacramento, California 95814

Dear Floyd:

Transmitted herewith is a report on the assignment of students in the San Diego Unified School District prepared in response to your request. Reviews of other school districts are in progress. The report shows that 2,369 students attended schools outside of their residence areas under a voluntary program to improve racial/ethnic balance during the 1972-73 school year at a budgeted cost of \$192,818. Costs for the 1973-74 school year for this purpose are budgeted at \$227,142.

The essence of the report is as follows:

- The increasing number of racially imbalanced schools of the San Diego Unified School District indicates that the district has had only minor involvement in the racial/ethnic assignment of students.
- Upon the request of parents, the district reassigns students to improve racial/ethnic balance. Approximately 2,369, or 1.9 percent, of the students attend schools outside their residence areas under this voluntary program. These students are provided transportation.
- The district has voluntary experimental programs on student racial integration which require busing. Approximately 130 students are bused under these programs.

Assemblyman Floyd L. Wakefield  
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- Racial/ethnic distribution has not been a significant factor in determining the location or attendance boundaries of schools to be constructed in the near future.
- Since December 1967, the district has been the defendant in continuing litigation to force racial balancing of the district's schools.

With my warm best wishes,

Sincerely,

*Vincent Thomas*

VINCENT THOMAS, Chairman  
Joint Legislative Audit Committee

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## INTRODUCTION

We have reviewed the records of San Diego Unified School District to determine if students are assigned to attend particular schools because of race or ethnic origin.

Since the mid 1960s, the California State Board of Education has urged school district governing boards to move towards the elimination of racial and ethnic segregation in schools. The United States Constitution, as interpreted by both federal and state courts since 1954, requires changes to achieve racial and ethnic balance in the schools.

In 1971, Sections 5002 and 5003 were approved by the Legislature and added to the Education Code, effective March 4, 1972. Section 5002 read in part:

"It is the declared policy of the Legislature that persons or agencies responsible for the establishment of school attendance centers or the assignment of pupils thereto shall prevent and eliminate racial and ethnic imbalance in pupil enrollment. The prevention and elimination of such imbalance shall be given high priority in all decisions relating to school sites, school attendance areas, and school attendance practices."

Sections 5002 and 5003 of the Education Code were almost identical to the State Board of Education rules and regulations contained in pre-existing Sections 14020 and 14021, Title 5, of the California Administrative Code.

Section 5003 of the Education Code placed the responsibility for carrying out the intent of the legislation with the State Board of Education. The State Board of Education had not adopted rules and regulations for implementing Sections 5002 and 5003 prior to the passage of Proposition 21.

The Legislative Counsel has provided us with opinion #14570, dated July 5, 1973, stating that:

"A school district was not required by Section 5002 of the Education Code to actually engage in any activity to eliminate racial imbalances in the schools under its jurisdiction during the time that the section was operative."

The full text of the opinion is attached as Appendix C.

In the statewide general election November 1972, the voters approved Proposition 21 which added to the Education Code:

"Sec. 1009.6. No public school student shall because of his race, creed, or color, be assigned to or be required to attend a particular school."

Proposition 21 also repealed Sections 5002 and 5003 of the Education Code, and Sections 14020 and 14021, Title 5, of the California Administrative Code.

The question presently before the courts is whether Education Code Section 1009.6 is constitutional or whether it violates the 14th Amendment of the United States Constitution. In February 1973 a superior court in Sacramento ruled Section 1009.6 to be constitutional. In May 1973 a superior court in San Bernardino ruled Section 1009.6 to be unconstitutional.

## SUMMARY

### Page

- THE INCREASING NUMBER OF RACIALLY IMBALANCED SCHOOLS OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT INDICATES THAT THE DISTRICT HAS HAD ONLY MINOR INVOLVEMENT IN THE RACIAL/ETHNIC ASSIGNMENT OF STUDENTS. 6
- UPON THE REQUEST OF PARENTS THE DISTRICT REASSIGNS STUDENTS TO IMPROVE RACIAL/ETHNIC BALANCE. APPROXIMATELY 2,369 OR 1.9 PERCENT OF THE STUDENTS ATTEND SCHOOLS OUTSIDE OF THEIR RESIDENCE AREAS UNDER THIS VOLUNTARY PROGRAM. THESE STUDENTS ARE PROVIDED TRANSPORTATION. 7
- THE DISTRICT HAS VOLUNTARY EXPERIMENTAL PROGRAMS ON STUDENT RACIAL INTEGRATION WHICH REQUIRE BUSING. APPROXIMATELY 130 ARE BUSED UNDER THESE PROGRAMS. 9
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- SINCE DECEMBER 1967, THE DISTRICT HAS BEEN THE DEFENDANT IN CONTINUING LITIGATION TO FORCE RACIAL BALANCING OF THE DISTRICT'S SCHOOLS. 13

# BACKGROUND

San Diego Unified School District is the second largest school district in the state. The racial/ethnic distribution of the grades K-12 student population for 1972-73 was:

	Total <u>Enrolled</u>	<u>School</u>				
		<u>Elementary</u>	<u>Junior High</u>	<u>Senior High</u>	<u>Continuation</u>	<u>Home Teachers</u>
Spanish Surname						
Number	14,063	8,137	3,213	2,593	109	11
Percentage	11.3%	11.9%	11.1%	9.9%	14.0%	12.0%
Other white						
Number	89,307	47,861	20,905	20,013	464	64
Percentage	71.7%	70.0%	72.1%	76.3%	59.8%	69.5%
Negro						
Number	16,496	9,405	3,912	2,976	188	15
Percentage	13.2%	13.7%	13.5%	11.3%	24.2%	16.3%
Oriental						
Number	1,996	1,265	418	303	9	1
Percentage	1.6%	1.8%	1.4%	1.2%	1.2%	1.1%
American Indian						
Number	218	108	44	63	3	0
Percentage	0.2%	0.2%	0.1%	0.2%	0.4%	0.0%
Other nonwhite						
Number	2,454	1,641	513	296	3	1
Percentage	<u>2.0%</u>	<u>2.4%</u>	<u>1.8%</u>	<u>1.1%</u>	<u>0.4%</u>	<u>1.1%</u>
TOTALS						
Number	124,534	68,417	29,005	26,244	776	92
Percentage	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>

The Board of Education of San Diego Unified School District has long been aware of the disproportionate racial/ethnic distribution in its schools. In 1964 the administration began an annual school racial/ethnic census.



On September 14, 1965, the board established a 37-member citizens committee on equal educational opportunities charged with the responsibility:

"... to diligently and conscientiously seek facts on which educationally sound policies can be formulated to assure all children of an equal opportunity to acquire an education which will enable each child to achieve his maximum potential..."

In response to a recommendation of this committee, the board, on May 16, 1967, unanimously adopted the following position statement:

"The Board of Education now reaffirms its determination to use whatever means are in keeping with sound educational policies to retard the growth of racial/ethnic segregation and to use all reasonable means to reduce racial/ethnic segregation in the schools of the district."

In his statement recommending that the board adopt the above position statement the superintendent stated:

"The administration does not support solutions which require a major reorganization of the school program or a massive redistribution of enrollment. None are known which meet the criteria imposed by this policy statement. No prior commitment has been made to any specific type of solution. We believe that any proposal considered for general use should first be subjected to thorough evaluation in a test situation."

The complete position statement is included in the "Report on Equal Educational Opportunities" presented by the school superintendent to the board on May 16, 1967, attached as Appendix A.

The Board of Education has considered alternative plans for desegregating the district schools. As yet, the district has not adopted a plan of desegregation.

### EFFECT OF DISTRICT ACTIVITIES

- THE INCREASING NUMBER OF RACIALLY IMBALANCED SCHOOLS OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT INDICATES THAT THE DISTRICT HAS HAD ONLY MINOR INVOLVEMENT IN RACIAL/ETHNIC ASSIGNMENT OF PUPILS.

The district has a long-standing history of racial/ethnic imbalance in its schools. A report submitted by San Diego Unified School District to the State Department of Education in the fall of 1971 reported the following data relating to imbalanced and minority schools:

#### Grade K-12 Schools

	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
Imbalanced schools	<u>80</u>	<u>91</u>	<u>93</u>	<u>95</u>	<u>95</u>
Minority schools	<u>25</u>	<u>25</u>	<u>27</u>	<u>27</u>	<u>29</u>

An analysis of the district's Pupil Ethnic Census (October 1972) shows that the district had 33 grade K-12 schools with minority populations in excess of 50 percent of the school population. Of the 159 schools in the district, 95 differed more than 15 percent from the district's average racial/ethnic composition.

VOLUNTARY REASSIGNMENT TO IMPROVE RACIAL BALANCE

- UPON THE REQUEST OF PARENTS, THE DISTRICT REASSIGNS STUDENTS TO IMPROVE RACIAL/ETHNIC BALANCE. APPROXIMATELY 2,369 OR 1.9 PERCENT OF THE STUDENTS ATTEND SCHOOLS OUTSIDE OF THEIR RESIDENCE AREAS UNDER THIS VOLUNTARY PROGRAM. THESE STUDENTS ARE PROVIDED TRANSPORTATION.

Requests for transfer of attendance area must be submitted by the parents. The request is granted if it meets the criteria established by the district for improving the racial/ethnic balance of both the sending and receiving schools.

Since the district policy of granting transfers to improve racial/ethnic balance was implemented, an increasing number of permits are processed annually. The summary by year is as follows:

	School Year <u>1966-67</u>	School Year <u>1967-68</u>	School Year <u>1968-69</u>	School Year <u>1969-70</u>	School Year <u>1970-71</u>	School Year <u>1971-72</u>	School Year 1972-73 <u>Thru 10-13-72</u>
Elementary	23	41	170	165	124	111	102
Junior High	111	255	305	441	443	408	574
Senior High	<u>102</u>	<u>196</u>	<u>207</u>	<u>269</u>	<u>344</u>	<u>374</u>	<u>428</u>
Total	<u>236</u>	<u>492</u>	<u>682</u>	<u>875</u>	<u>911</u>	<u>893</u>	<u>1,104</u>

Permits granted for the improvement of racial/ethnic balance are valid after the date of issuance for the remaining years in each school level -- elementary, junior high, and senior high.

In the 1972-73 school year, 2,369 students attended schools outside of their area of residence. No "other white" students participated in this voluntary program for improvement of the racial/ethnic balance.

The school district issues free transportation passes to students who have been granted special attendance permits to improve racial/ethnic balance. Some of the eligible students do not utilize the free transportation. District transportation is provided to eligible students by contract with the city transit system and charter buses.

The district's transportation costs for the improvement of racial/ethnic balance are:

1973-74 (budgeted)	\$227,142
1972-73 (budgeted)	\$192,818
1971-72 (actual)	\$142,980

VOLUNTARY EXPERIMENTAL PROGRAM ON STUDENT RACIAL INTEGRATION

- THE DISTRICT HAS VOLUNTARY EXPERIMENTAL PROGRAMS ON STUDENT RACIAL INTEGRATION WHICH ALSO REQUIRE BUSING. APPROXIMATELY 130 STUDENTS ARE BUSED UNDER THESE PROGRAMS.

The Model Schools Programs at Silvergate and Fremont schools require the busing of approximately 65 students to each school. The following description of the district's problems and model programs is taken from a brief filed as Amicus Curiae by the San Diego Unified School District with the United States Supreme Court, October 1971 term:

"Over the past three decades the San Diego area has experienced a large influx of Negro and other minority group residents. These new residents tended to congregate together in certain areas of the city, and as a result the neighborhood schools in some of those areas have a disproportionate number of minority students as compared to other areas of the city.

Some of these minority students presented special educational problems. For example, some had come from other parts of the country where there were lower educational standards; others entered school with little English-language background, and many came from economically deprived families. In an attempt to alleviate many of these problems, the San Diego Unified School Board has formulated a plethora of compensatory and other educational programs<sup>4</sup>--all of which are designed to assure that each child has an equal educational opportunity no matter what his race, ethnic, economic or social background."

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<sup>4</sup>Several of these programs (E.g., The Fremont-Silvergate Model Schools Program and the Balboa Park Program) were designed to provide an opportunity for pupils from various ethnic and socio-economics groups to come together for the purpose of developing mutual respect and understanding."

The budgeted costs of busing students who are participating in the Silvergate and Fremont Model Schools program are:

1973-74	\$14,220
1972-73	\$12,816
1971-72	\$13,500

DETERMINATION OF LOCATION AND ATTENDANCE AREAS

- RACIAL/ETHNIC DISTRIBUTION HAS NOT BEEN A SIGNIFICANT FACTOR IN DETERMINING THE LOCATION OR ATTENDANCE BOUNDARIES OF SCHOOLS TO BE CONSTRUCTED IN THE NEAR FUTURE.

San Diego Unified School District has 25 schools with buildings that do not meet state-established standards for earthquake safety (Pre-Field Act Schools).

By June 30, 1975, 18 of these schools will require permanent replacement and seven will require replacement by remodeling and the addition of portable buildings. Fifteen of these schools have a racial/ethnic balance which differs from the district's average by more than 15 percent.

The Board of Education has approved replacement of all Pre-Field Act buildings on the existing sites. The October 10, 1972 superintendent's report to the Board of Education on "Review of Plans for Pre-Field Act Schools" states:

"An analysis of the racial/ethnic census and the mobility of groups within the community indicates that the school district's racial/ethnic balance cannot be significantly improved by changing the location of any of the pre-Field Act schools within existing attendance areas or by adjusting the boundaries of immediately adjacent schools. Plans to achieve long-range racial/ethnic balance will need to include the large white enrollment residing north of Interstate 8."

North of Interstate Highway 8, with the exception of one small area, the school population is predominately white. In the area immediately south of Interstate 8, there are a number of schools which are reasonably well balanced. The southern part of the district has a minority student population in excess of the district average (Appendix B). With this population distribution, the changing of boundary lines would do little to achieve district-wide racial/ethnic balance.



LITIGATION TO FORCE RACIAL BALANCING OF DISTRICT'S SCHOOLS

- SINCE DECEMBER 1967, THE DISTRICT HAS BEEN THE DEFENDANT IN CONTINUING LITIGATION TO FORCE RACIAL BALANCING OF THE DISTRICT'S SCHOOLS.

In December 1967, Mr. Larry Carlin, one of the members of the Citizens Committee on Equal Educational Opportunities, brought a "class action" suit against the district Board of Education seeking a court order mandating racial balancing of the district schools. (Carlin v. Board of Education, San Diego Unified School District, San Diego Superior Court, No. 303800.)

In July 1969, the California Attorney General filed a similar suit. (People v. San Diego Unified School District, et al., San Diego Superior Court, No. 312080.)

The Carlin suit became inactive, and the school district was successful in obtaining a dismissal of the Attorney General's case in the Superior Court. The Attorney General appealed the decision, which was reversed, and the case was remanded by the Court of Appeals to the Superior Court for trial. (People ex. rel. Lynch v. San Diego Unified School District (1971) 19 Cal. App. 3d 252, 96 Cal. Rptr. 658.)

The school district was denied a hearing by the California Supreme Court, and later the United States Supreme Court denied its petition for a writ of certiorari. (San Diego Unified School District v. California (1972) 405 U.S. 1016).

On April 6, 1972, after the enactment of Sections 5002 and 5003 of the Education Code, the Attorney General's suit was dismissed.

Following that action, the Carlin case was reactivated and, at present, a trial date has been set for October 1973.

A handwritten signature in cursive script, reading "Walter J. Quinn".

Walter J. Quinn  
Acting Deputy Auditor General

August 9, 1973

Staff:

John Finnstrom  
Richard LaRock  
Mildred Kiesel

SAN DIEGO CITY SCHOOLS  
Office of the Superintendent

REPORT ON EQUAL EDUCATIONAL OPPORTUNITIES  
(See Recommendation No. I, CCEEO)

May 16, 1967

The staff and board of the San Diego city school district have been aware for several years that the enrollment of children of Negro and Mexican descent was heavily concentrated in a small number of the schools of the district. The racial/ethnic census conducted by the district in 1964, 1965, and 1966 documented not only the existence of racial/ethnic segregation but also that the degree of concentration in a few schools is increasing.

The California State Department of Education presented to the State Board of Education California's first racial/ethnic census of all public schools of the State on March 9, 1967. The report revealed that the vast majority of the State's Negro children and youngsters of Mexican descent attend schools in which there are large numbers of other children of similar racial/ethnic groups. Speaking for the State Board of Education, the president, Dorman I. Commons, said:

This report gives strong evidence that we are not making any progress at all; we are not walking fast enough to keep up with ourselves. We have an obligation to act upon it.

Nature of possible action is indicated by:

1. Memorandum of April 20 from State Superintendent Rafferty to all district and county superintendents (copy attached).
2. Resolution of Commission on Equal Opportunities in Education requesting State Board of Education to amend Sections 2010 and 2011 of Title 5 of the California Administrative Code (copy attached).
3. Scheduling of an item for amendment of these Administrative Code sections on the June agenda of the State Board of Education.

Like almost all school districts in the United States, the San Diego Unified School District's elementary schools and, to a lesser degree, its secondary schools, are built to conform to the neighborhood school principle. Attendance boundaries are usually drawn so that each school serves a relatively small area. The virtues of the neighborhood school are plain--the personal security of the pupils, a close relationship between parents and teachers, and prideful identification of neighborhood with the school program--to cite a few. The neighborhood school concept has served this community well; and, wherever possible, this administration recommends that its virtues be preserved and enhanced. However, the neighborhood school plan should not be used to separate minority children from all others in their age groups.

Technically an all-white school is just as out of balance as an all-Negro school, or a school in which all students are of Mexican descent, and students of such a

school do not receive the well-rounded education that they need in today's world. The charge that educational opportunity is unequal is of doubtful validity when applied to situations of this kind. The issue is much clearer when the school in which enrollment is primarily or largely made up of minority children is considered. The youngsters attending such a school may be substantially out of touch with the mainstream of middle-class American society with the result that their opportunity for a fully equal education is severely weakened. We must be concerned with this type of school. We must commit ourselves to rectifying this inequality.

### Conclusion

Pursuant to that end, I recommend that the board adopt the following position statement:

The Board of Education believes in the equal dignity of all men. From this belief in equal dignity, the demand for equal opportunity for all men logically flows. The public school system in this nation was developed in part as an institution designed to make the ideal of equal opportunity a reality. Advancement toward the American ideal of equality of opportunity and equal dignity for all men requires that the provision of equal educational opportunity be the central obligation of the public schools.

The United States Supreme Court, in 1954, expressed the unanimous opinion that schools segregated on the basis of race or ethnic origin are inherently unequal. In California, by law and custom, we have historically operated on the principle of equality of educational opportunity for all children, without regard to race or color, and for this reason it was easy for us to accept the underlying hypothesis of that decision and applaud its rendition.

As recently as 25 years ago, the schools in the San Diego Unified School District were not segregated. We now find that, primarily because of patterns of residential segregation, some of our schools are becoming increasingly segregated on the basis of race and ethnic origin. The board recognizes that the term "equal educational opportunity" implies the opportunity for each individual to become aware of and to understand and appreciate the many varieties of culture, to learn to relate positively to the diverse people in his society, to contribute and refine his own evolving cultural patterns, and to develop his own dignity and worth. Therefore, we realize that racial/ethnic segregation poses a challenge to equality of educational opportunity and that this challenge must be met with the full thrust of our legal authority and moral leadership.

The board does not intend to become involved in debating the questions of "What percentages constitute imbalance?" or "How much concentration of children from racial/ethnic minority groups makes a school 'de facto' segregated?" We recognize from the results of our own ethnic surveys, taken over a three-year period, that some of the schools in San Diego are becoming increasingly segregated.

We state unequivocally that nothing in the board's policy, present or past, was deliberately inserted to bring about the segregation which exists. We fully realize that there are many social and economic forces, over which we have no direct control, which tend to facilitate de facto racial/ethnic segregation.

The board has made clear, both individually and collectively, its abhorrence of racial or ethnic segregation in any form. It instituted in August, 1966, a policy of student transfer when such a transfer would improve racial/ethnic balance of both the school of residence and the school of desired attendance.

THE BOARD OF EDUCATION NOW REAFFIRMS ITS DETERMINATION TO USE WHATEVER MEANS ARE IN KEEPING WITH SOUND EDUCATIONAL POLICIES TO RETARD THE GROWTH OF RACIAL/ETHNIC SEGREGATION AND TO USE ALL REASONABLE MEANS TO REDUCE RACIAL/ETHNIC SEGREGATION IN THE SCHOOLS OF THE DISTRICT.

The board does not expect to achieve these goals immediately or alone. The understanding and support of all citizens of the city is essential to success. The cooperation of other institutions is needed both in support of the school program and in attack on any inequalities that may exist in other phases of community life.

Adoption of this position statement does not establish any new programs nor does it commit the district to any specific new course of action. It does establish a positive climate for the consideration of new proposals. It does establish criteria for appraisal of proposals by stating that the means used must be reasonable and in keeping with sound educational policy.

The administration does not support solutions which require a major reorganization of the school program or a massive redistribution of enrollment. None are known which meet the criteria imposed by this policy statement. No prior commitment has been made to any specific type of solution. We believe that any proposal considered for general use should first be subjected to thorough evaluation in a test situation.

Education has an important role to play in the solution of social problems. It does not set the goals for society. It does not act unilaterally or alone in the solution of a social problem, but in unison and harmony with other institutions. This school district acting alone cannot hope to solve problems of racial isolation which exist in the community. Efforts to reduce or eliminate any inequality of educational opportunity which stems from racial isolation must be accompanied by efforts of appropriate institutions and agencies to reduce inequality in other areas such as those purportedly existing in housing and employment. All such efforts must enjoy the understanding and support of at least a majority of the community. Success of the school district in development of viable solutions will depend to considerable degree on the development of a broadly based human relations program in the city as a whole.

RD:mp

Enc.

# SAN DIEGO UNIFIED SCHOOL DISTRICT ELEMENTARY SCHOOL BOUNDARIES

1972-73



GOULD  
OWEN K. KUNS  
RAY H. WHITAKER

GENT L. DECHAMBEAU  
ERNEST H. KUNZI  
STANLEY M. LOURIMORE  
SHERWIN C. MACKENZIE, JR.  
ANN M. MACKAY  
EDWARD F. NOWAK  
EDWARD K. PURCELL  
PRINCIPAL DEPUTIES

3021 STATE CAPITOL  
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110 STATE BUILDING  
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# Legislative Counsel of California

GEORGE H. MURPHY

Sacramento, California

July 5, 1973

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TRACY O. POWELL, II  
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DAVID E. WHITTINGTON  
JIMMIE WING  
CHRISTOPHER ZIRKLE  
DEPUTIES

Honorable Vincent Thomas  
Assembly Chamber

School - Racial and Ethnic  
Imbalances - #14570

Dear Mr. Thomas:

## QUESTION

You have asked if a school district was required by Section 5002 of the Education Code to actually engage in any activity to eliminate racial imbalances in the schools under its jurisdiction during the time that the section was operative.

## OPINION

A school district was not required by Section 5002 of the Education Code to actually engage in any activity to eliminate racial imbalances in the schools under its jurisdiction during the time that the section was operative.

## ANALYSIS

At the outset, we point out that the Supreme Court of California has held that the governing board of a school district is required to take affirmative steps, insofar as reasonably possible, to alleviate racial segregation in the schools under its jurisdiction, regardless of whether the

segregation is de facto segregation or de jure segregation (Jackson v. Pasadena City School Dist. (1963), 59 Cal. 2d 876, 881-882; see San Francisco Unified School Dist. v. Johnson, 3 Cal. 3d 937, 957-959; Serrano v. Priest (1971), 5 Cal. 3d 584, 604). The question here presented relates only to the provisions of Sections 5002 and 5003 of the Education Code.\*

Sections 5002 and 5003 were added by Chapter 1765 of the Statutes of 1971 and became operative on March 4, 1972. The sections were repealed by an initiative measure approved by the voters on November 6, 1972. The question is whether or not Section 5002 required a school district to undertake any activity during the time between the two dates. We do not think that it did, since Section 5002 merely declared the policy of the Legislature with respect to the prevention and elimination of racial and ethnic imbalances. Section 5002 provided as follows:

"5002. It is the declared policy of the Legislature that persons or agencies responsible for the establishment of school attendance centers or the assignment of pupils thereto shall prevent and eliminate racial and ethnic imbalance in pupil enrollment. The prevention and elimination of such imbalance shall be given high priority in all decisions relating to school sites, school attendance areas, and school attendance practices."

Section 5003 provided:

"5003. (a) In carrying out the policy of Section 5002, consideration shall be given to the following factors:

"(1) A comparison of the numbers and percentages of pupils of each racial and ethnic group in the district with their numbers and percentages in each school and each grade.

"(2) A comparison of the numbers and percentages of pupils of each racial and ethnic group in certain schools with those in other schools in adjacent areas of the district.

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\* All references to code sections are to sections of the Education Code unless otherwise noted.



"(3) Trends and rates of population change among racial and ethnic groups within the total district, in each school, and in each grade.

"(4) The effects on the racial and ethnic composition of each school and each grade of alternate plans for selecting or enlarging school sites, or for establishing or altering school attendance areas and school attendance practices.

"(b) The governing board of each school district shall periodically, at such time and in such form as the Department of Education shall prescribe, submit statistics sufficient to enable a determination to be made of the numbers and percentages of the various racial and ethnic groups in every public school under the jurisdiction of each such governing board.

"(c) For purposes of Section 5002 and this section, a racial or ethnic imbalance is indicated in a school if the percentage of pupils of one or more racial or ethnic groups differs significantly from the districtwide percentage.

"(d) A district shall study and consider plans which would result in alternative pupil distributions which would remedy such an imbalance upon a finding by the Department of Education that the percentage of pupils of one or more racial or ethnic groups in a school differs significantly from the districtwide percentage. A district undertaking such a study may consider among feasibility factors the following:

"(1) Traditional factors used in site selection, boundary determination, and school organization by grade level.

"(2) The factors mentioned in subdivision (a) of this section.

"(3) The high priority established in Section 5002.

"(4) The effect of such alternative plans on the educational programs in that district.

"In considering such alternative plans the district shall analyze the total educational impact of such plans on the pupils of the district. Reports of such a district study and resulting plans of action, with schedules for implementation, shall be submitted to the Department of Education, for its acceptance or rejection, at such time and in such form as the department shall prescribe. The department shall determine the adequacy of alternative district plans and implementation schedules and shall report its findings as to the adequacy of alternative district plans and implementation schedules to the State Board of Education. A summary report of the findings of the department pursuant to this section shall be submitted to the Legislature each year.

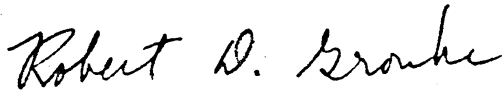
"(e) The State Board of Education shall adopt rules and regulations to carry out the intent of Section 5002 and this section."

Since Section 5002 was limited to a declaration of legislative policy, it did not impose a requirement upon school districts to undertake any particular activity to eliminate racial imbalances.

As to Section 5003, such requirements could have been imposed by regulations of the State Board of Education adopted under subdivision (e), but none were ever adopted. While Section 5003 required school districts to submit certain data and study and consider certain plans, it did not require school districts to undertake any activity to eliminate racial or ethnic imbalances in the schools under their jurisdiction.

Very truly yours,

George H. Murphy  
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By  
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RDG:sk